

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1010, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1           Page 1, line 10, after "unless the" insert "**state agency or political**
- 2           **subdivision provides reasonable compensation to the**".
- 3           Page 1, line 10, delete "is compensated in accordance with" and
- 4           insert "**for the loss of the sign**".
- 5           Page 1, delete line 11.
- 6           Page 1, between lines 11 and 12, begin a new paragraph and insert:
- 7           "SECTION 2. IC 23-14-60-1 IS AMENDED TO READ AS
- 8           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If:
- 9           (1) any number of persons have:
- 10           (A) acted together as an association or corporation;
- 11           (B) acquired, as an association or corporation, land for
- 12           cemetery purposes;
- 13           (C) sold and granted to persons the right to bury the dead in
- 14           lots located on the land; and
- 15           (D) actually managed and controlled the land as a cemetery for
- 16           at least thirty (30) years; but
- 17           (2) the organization that the persons attempted to establish as a
- 18           corporation or cemetery association is defective and incomplete
- 19           because of a failure to comply with the formalities required by law
- 20           in force at some time since the original parties first assumed to act

as an association or corporation;  
the owners of the right to bury the dead on lots in the cemetery and  
those who may acquire the right become and continue to be a cemetery  
association or corporation from March 14, 1913.

(b) The owners of the right to bury the dead on lots in a cemetery  
referred to in subsection (a) have all the rights and powers of a cemetery  
association or corporation organized under this article, IC 23-1, or  
IC 23-17. ~~including the power of eminent domain under IC 32-24-1.~~

SECTION 3. IC 23-14-75-1 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter  
applies to ~~the following~~:

~~(1) A:~~

~~(A) city;~~

~~(B) town;~~

~~(C) township;~~

~~(D) corporation or association; or~~

~~(E) another owner;~~

~~that owns or controls a public cemetery that has been in existence  
for at least thirty (30) years.~~

~~(2) A:~~

~~(A) city, town, or township; or~~

~~(B) corporation or association a city, town or township that:~~

~~(1) owns a cemetery that has been in existence for at least thirty  
(30) years; or~~

~~that (2) desires to own a public cemetery.~~

SECTION 4. IC 23-14-75-2 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If land has not  
been appropriated or set apart by the owners by platting for a public  
cemetery and it is necessary to purchase real estate for the cemetery:

(1) the legislative body of the city or town; **or**

(2) the executive of the township;

~~(3) the trustees or directors of the corporation or association; or~~

~~(4) the other owners;~~

**have has** the power of eminent domain to condemn and appropriate the  
land for cemetery purposes under proceedings provided by statute."

Page 7, line 12, delete "to provide" and insert "**for the construction,  
reconstruction, improvement, maintenance, or repair of**".

- 1 Page 7, line 14, after "(1)" insert **"if the construction,**
- 2 **reconstruction, improvement, maintenance, or repair of the feeder**
- 3 **road begins not later than five (5) years from the conclusion of the**
- 4 **project"**.
- 5 Page 7, line 36, delete "or".
- 6 Page 7, line 37, after "IC 8-1-2.2" insert **", municipal sanitation**
- 7 **department operating under IC 36-9-23, sanitary district operating**
- 8 **under IC 36-9-25, or an agency operating as a stormwater utility"**.
- 9 Page 7, line 38, delete "." and insert **"or pipeline company."**
- 10 Page 7, line 40, after "utility" insert **"or pipeline company"**.
- 11 Page 8, line 1, after "offer" insert **"in writing"**.
- 12 Page 8, line 2, delete "," and insert **"or pipeline company,"**.
- 13 Page 8, line 4, after "utility" insert **"or pipeline company"**.
- 14 Page 8, line 6, after "utility" insert **"or pipeline company"**.
- 15 Page 8, line 7, after "utility" insert **"or pipeline company"**.
- 16 Page 8, line 10, delete "three (3)" and insert **"two (2)"**.
- 17 Page 9, line 14, after "objections" insert **"by not more than thirty**
- 18 **(30) days"**.
- 19 Page 10, line 28, strike "(b) If there is a trial, the additional costs
- 20 caused by the trial shall be".
- 21 Page 10, line 29, strike "paid as ordered by the court. However,".
- 22 Page 10, line 29, delete "except as provided in".
- 23 Page 10, line 30, delete "IC 32-24-4.5-5,".
- 24 Page 10, line 30, strike "if there is a trial and the amount of damages
- 25 awarded".
- 26 Page 10, strike lines 31 through 35, begin a new paragraph and
- 27 insert: **"(b) If the owner of a parcel of real property incurs**
- 28 **attorney's fees because a plaintiff seeks to acquire the parcel**
- 29 **through the exercise of eminent domain, the plaintiff shall**
- 30 **reimburse the owner's reasonable attorney's fees. However, the**
- 31 **total amount of attorney's fees that a plaintiff may be required to**
- 32 **reimburse an owner under this subsection may not exceed one**
- 33 **hundred thousand dollars (\$100,000)."**
- 34 Page 10, line 39, after "damages" insert **"and attorney's fees**
- 35 **payable in accordance with section 14 of this chapter"**.
- 36 Page 11, line 1, after "assessed" insert **"and attorney's fees payable**

1 **in accordance with section 14 of this chapter".**

2 Page 11, line 3, after "assessed" insert "**and attorney's fees payable**  
3 **in accordance with section 14 of this chapter".**

4 Page 11, line 7, after "assessed" insert "**and attorney's fees payable**  
5 **in accordance with section 14 of this chapter".**

6 Page 11, between lines 25 and 26, begin a new paragraph and insert:

7 "SECTION 12. IC 32-24-2-17 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE UPON PASSAGE]: **Sec. 17. A landowner who incurs**  
10 **attorney's fees through the exercise of eminent domain under this**  
11 **chapter is entitled to reasonable attorney's fees in accordance with**  
12 **IC 32-24-1-14.**

13 SECTION 13. IC 32-24-3-4 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After the  
15 appraisers file their report, any of the defendants may, within a  
16 reasonable time fixed by the court, file exceptions to the report, alleging  
17 that the appraisal of the property, as made by the appraisers, is not  
18 the true cash value of the property. If exceptions are filed, a trial on the  
19 exceptions shall be held by the court or before a jury, if asked by either  
20 party.

21 (b) The circuit court clerk shall give notice of filing of the appraisers'  
22 report to all known parties to the action and their attorneys of record by  
23 certified mail.

24 (c) Upon the trial of the exceptions, the court may revise, correct,  
25 amend, or confirm the appraisal in accordance with the finding of  
26 the court or verdict of the jury.

27 (d) The court shall apportion the costs accruing in the proceedings  
28 as justice may require. **However, a landowner who incurs attorney's**  
29 **fees through the exercise of eminent domain under this chapter is**  
30 **entitled to reasonable attorney's fees in accordance with**  
31 **IC 32-24-1-14.**

32 (e) Changes of venue may be had as in other cases."

33 Page 11, line 27, delete "Except as".

34 Page 11, line 28, delete "provided in section 1.5 of this chapter, a"  
35 and insert "A".

36 Page 11, line 40, after "estate" delete "." and insert "**to accomplish**

1       **the essential delivery of services described in subdivisions (1) and**  
 2       **(2).".**

3       Page 12, delete lines 5 through 14.

4       Page 12, line 22, after "agency" insert **"for the purpose of**  
 5       **providing the general public with fundamental services, including**  
 6       **the construction, maintenance, and reconstruction of highways,**  
 7       **bridges, airports, ports, intermodal facilities, parks, and publicly**  
 8       **owned venues".**

9       Page 12, between lines 22 and 23, begin a line block indented and  
 10      insert:

11       **"(2) leasing of a highway, bridge, airport, port, intermodal**  
 12       **facility, park, or publicly owned venue by a public agency that**  
 13       **retains ownership of the parcel by written lease with right of**  
 14       **forfeiture; or".**

15      Page 12, line 23, delete "(2)" and insert "(3)".

16      Page 12, line 24, delete ", including" and insert ",".

17      Page 12, line 25, delete ";" and insert ",".

18      Page 12, line 25, after "or" insert **"a pipeline company."**

19      Page 12, delete lines 26 through 33.

20      Page 12, after line 42, begin a new paragraph and insert:

21       **"(c) This chapter does not apply twenty (20) years after the**  
 22       **acquisition of the real property."**

23      Page 13, between lines 2 and 3, begin a new paragraph and insert:

24       **"Sec. 3. As used in this chapter, "parcel" means the real**  
 25       **property that is under common ownership and that the**  
 26       **condemning authority is seeking to acquire.**

27       **Sec. 4. As used in this chapter, "private person" means a person**  
 28       **other than a public agency.**

29       **Sec. 5. As used in this chapter, "public agency" means:**

- 30       **(1) a state agency (as defined in IC 4-13-1-1);**
- 31       **(2) a unit (as defined in IC 36-1-2-23);**
- 32       **(3) a body corporate and politic created by state statute;**
- 33       **(4) a school corporation (as defined in IC 20-26-2-4); or**
- 34       **(5) another governmental unit or district with eminent domain**  
 35       **powers.**

36       **The term does not include a state educational institution (as**

1 defined in IC 20-12-0.5-1).

2 Sec. 6. As used in this chapter, "relocation costs" mean  
3 relocation expenses payable in accordance with the federal  
4 Uniform Relocation Assistance Act (42 U.S.C. 4601 through 42  
5 U.S.C. 4655).".

6 Page 13, line 3, delete "Sec. 3." and insert "Sec. 7.".

7 Page 13, line 12, delete "private or".

8 Page 13, line 13, delete "dwelling" and insert "structure".

9 Page 13, line 13, after "that" insert "is unfit for human habitation  
10 or use because the structure".

11 Page 13, line 19, after "applicable" insert "building codes or".

12 Page 13, line 34, delete "predominantly" and insert "substantially".

13 Page 13, line 40, delete "." and insert ", and the neglect or lack of  
14 maintenance has not been corrected by the owner of the parcel  
15 within a reasonable time after the owner receives notice of the  
16 accumulation or infestation.".

17 Page 14, delete lines 2 through 5.

18 Page 14, line 6, delete "(H)" and insert "(G)".

19 Page 14, line 8, delete "(I)" and insert "(H)".

20 Page 14, delete lines 9 through 18.

21 Page 14, line 19, delete "(3)" and insert "(2)".

22 Page 14, between lines 22 and 23, begin a new line block indented  
23 and insert:

24 "(3) If the owner files a request for mediation at the time the  
25 owner files an objection or exception to an eminent domain  
26 proceeding, the court shall appoint a mediator not later than  
27 ten (10) days after the request for mediation is filed.  
28 Mediation must be concluded not later than ninety (90) days  
29 after the appointment of the mediator. A condemnor shall  
30 engage in good faith mediation with the owner, including the  
31 consideration of a reasonable alternative to the exercise of  
32 eminent domain. The condemnor shall pay the costs of the  
33 mediator.".

34 Page 14, line 26, delete "Sec. 4." and insert "Sec. 8.".

35 Page 14, line 41, delete "not to exceed two hundred and fifty  
36 thousand" and insert "including a loss incurred in a trade or business

- 1       **that is attributable to the exercise of eminent domain;"**.
- 2       Page 14, line 42, delete "dollars (\$250,000);".
- 3       Page 15, line 8, delete "not to exceed two hundred and fifty
- 4       thousand" and insert **"including a loss incurred in a trade or business**
- 5       **that is attributable to the exercise of eminent domain;"**.
- 6       Page 15, line 9, delete "dollars (\$250,000);".
- 7       Page 15, line 17, delete "not to exceed two hundred and fifty
- 8       thousand" and insert **"including a loss incurred in a trade or business**
- 9       **that is attributable to the exercise of eminent domain;"**.
- 10      Page 15, line 18, delete "dollars (\$250,000);".
- 11      Page 15, line 20, delete "Sec. 5." and insert **"Sec. 9."**.
- 12      Page 15, line 23, after "reimburse" insert **"the owner's reasonable"**.
- 13      Page 15, line 23, after "fees" delete ":" and insert ".".
- 14      Page 15, delete lines 24 through 28.
- 15      Page 15, line 31, delete "two" and insert **"one"**.
- 16      Page 15, line 31, delete "fifty".
- 17      Page 15, line 31, delete "(\$250,000)" and insert **"(\$100,000)"**.
- 18      Page 15, between lines 31 and 32, begin a new paragraph and insert:
- 19      "SECTION 15. IC 32-24-7 IS ADDED TO THE INDIANA CODE
- 20      AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 21      UPON PASSAGE]:
- 22      **Chapter 7. Procedure for Libraries**
- 23      **Sec. 1. This chapter applies to the exercise of eminent domain by**
- 24      **a library board (as defined in IC 36-12-1-3). Notwithstanding any**
- 25      **other law, a library board may exercise eminent domain only if it**
- 26      **complies with this chapter.**
- 27      **Sec. 2. A library board may exercise eminent domain only if one**
- 28      **(1) of the following legislative bodies adopts a resolution**
- 29      **specifically authorizing the library board to exercise eminent**
- 30      **domain over a particular parcel of land for a specific purpose:**
- 31          **(1) If the library district is located entirely within the**
- 32          **corporate boundaries of a municipality, the legislative body**
- 33          **of the municipality.**
- 34          **(2) If the library district:**
- 35              **(A) is not described by subdivision (1); and**
- 36              **(B) is located entirely within the boundaries of a township;**

the legislative body of the township.

(3) If the library district is not described by subdivision (1) or (2), the legislative body of each county in which the library district is located.

**Sec. 3. The resolution described in section 2 of this chapter must specifically describe:**

(1) the parcel of land that the library board seeks to acquire by exercising eminent domain;

(2) the purpose for which the parcel of land is to be acquired; and

(3) why the exercise of eminent domain is necessary to accomplish the library board's purpose."

Page 15, line 40, after "unless the" insert "**unit provides reasonable compensation to the**".

Page 15, line 40, delete "is compensated in accordance with" and insert "**for the loss of the sign**".

Page 15, delete line 41.

Page 16, line 12, delete "IC 32-24-4.5-3(1)" and insert "**IC 32-24-4.5-7(1)**".

Page 17, line 25, delete "IC 32-24-4.5-3(1)" and insert "**IC 32-24-4.5-7(1)**".

Page 18, line 36, delete "This act applies" and insert "**(a) As used in this SECTION, "committee" refers to the interim study committee on eminent domain established by this SECTION.**

**(b) There is established the interim study committee on eminent domain. The committee shall study issues related to the exercise of eminent domain.**

**(c) The committee may meet as often as necessary to carry out its duties under this SECTION.**

**(d) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2007.**

**(e) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.**

**(f) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from**



- 1       **appropriations to the legislative council and legislative services**
- 2       **agency.**
- 3       **(g) This SECTION expires November 2, 2007."**

- 1 Page 18, delete lines 37 through 38.
- 2 Renumber all SECTIONS consecutively.  
(Reference is to HB 1010 as reprinted January 26, 2006.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 11, Nays 0.

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**Long**

**Chairperson**